

FOR PUBLICATION:

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

IN RE:	:	MASTER DOCKET FILE
TUTU WELLS CONTAMINATION LITIGATION	:	NO. 1989-107
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RHODA J. HARTHMAN, ET AL.,	:	
Plaintiffs,	:	MEMORANDUM AND OPINION
v.	:	RE: CONTEMPT AND
	:	SANCTIONS MOTIONS
TEXACO, INC., ET AL.,	:	
Defendants.	:	CIVIL NO. 89-220
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ESSO STANDARD OIL, S.A., LTD., ET AL.	:	
Third-Party Plaintiffs,	:	
v.	:	
LAGA INDUSTRIES, LTD., ET AL.,	:	
Third-Party Defendants.	:	
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FOUR WINDS PARTNERSHIP,	:	
Plaintiff,	:	CIVIL NO. 89-224
v.	:	
TEXACO CARIBBEAN, INC., ET AL.,	:	
Defendants.	:	
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ESSO STANDARD OIL, S.A., LTD.,	:	
Counter-claimant and	:	
Third-Party Plaintiff,	:	
v.	:	
LAGA INDUSTRIES, LTD., ET AL.,	:	

Third-Party Defendants. :

**In Re Tutu Water Wells Contamination Litigation
Master Docket No. 1989-107: Civil Nos. 1989-220 & 1989-224
Memorandum Opinion and Findings on Contempt and Sanctions Motion
Brotman, J.**

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March 20, 1995

MEMORANDUM OPINION AND ORDER

Pending before this court are several motions requesting sanctions, including monetary awards, dismissal of counter-claims and cross-claims, and other relief because of

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various acts of alleged discovery misconduct among the Esso Defendants and their counsel.

I. THE JANUARY 15, 1993 ORDER

The first series of motions for sanctions, relating to failure of the Esso Defendants to obey a discovery Order of the Magistrate, were submitted to the Honorable Geoffrey Barnard, United States Magistrate Judge (hereinafter "Magistrate"), for Report and Recommendation pursuant to 28 U.S.C. § 636 (b)(1). The Magistrate found sanctions to be warranted, and acknowledged his dismay that the discovery did not proceed according to his Order of January 15, 1993. The Magistrate concluded that "while testimony was presented by the plaintiff which could be construed to suggest that counsel [for the Esso interests] obstructed the investigation, . . . their efforts, if anything, **were out of zealous defense of their clients and not willful, malicious, or contumacious disregard of the court.**" (Emphasis added.) Though no objections to the Magistrate's factual findings were filed, several parties filed objections to the Magistrate's conclusion that the actions taken by Counsel for Esso were not willful, and

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in bad faith, but merely out of "zealous defense." For the following reasons, this court disagrees with the Magistrate's characterization of the conduct of former counsel for the Esso Defendants, and finds that the failure to obey the mandate of the Order and permit discovery was willful and in bad faith.